

Ordinance No. 16-01
Subdivision Regulation Amend. No. 06-03
Concerning: Preliminary Subdivision
Plans – ~~[[Approvals –]]~~ Applicability
of Growth Policy Amendments
Revised: 1-26-07 Draft No. 4
Introduced: December 5, 2006
Public Hearing: January 16, 2007
Adopted: January 30, 2007
Effective: January 30, 2007

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: Council President Praisner and Councilmembers Andrews and Elrich

AN AMENDMENT to the Subdivision Regulations to~~[[:]~~

- ~~[[~~(1) suspend for a certain period of time the approval of certain preliminary plans of subdivision~~]]~~
- ~~[[~~(2) provide for the applicability of certain growth policy or adequate public facilities requirements to certain subdivisions~~]]~~; and~~]]~~
- ~~[[~~(3) generally amend the process for approving and accepting applications for preliminary plans of subdivision and similar Planning Board actions~~]]~~.

By adding the following sections of County Code Chapter 50:

Section 50-35B, ~~[[Suspension of certain preliminary subdivision plan approvals]]~~

Applicability of future adequate public facilities requirements – temporary provision.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

OPINION

Subdivision Regulation Amendment 06-03 was introduced on December 5, 2006 to direct the Planning Board to suspend the approval of certain preliminary subdivision plans for a certain period of time. The delay in the approval of preliminary subdivision plans would allow unapproved plans to be governed by any changes that the Council ultimately makes in the County Growth Policy, scheduled for review later this year under Council Resolution 16-17.

The County Planning Board in its report to the Council recommended that the Council carefully consider alternatives to the proposed subdivision regulation amendment that would address certain specific concerns expressed by Planning Board members.

The Council held a public hearing on January 16, 2007, to receive testimony concerning the proposed amendment. The subdivision regulation amendment was referred to the Council's Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on January 22, 2007, to review the amendment. The Committee recommended a further amendment that would (1) delete all temporary restrictions on preliminary subdivision plan approvals, and require the Planning Board to conditionally approve certain plans subject to reopening to comply with later-adopted Growth Policy and adequate public facilities requirements; and (2) notify preliminary subdivision plan applicants that certain Growth Policy and other adequate public facilities requirements adopted after January 1, 2007, will apply to plans filed after January 1, 2007, and approved before August 15, 2007.

The District Council reviewed Subdivision Regulation Amendment at a worksession held on January 30, 2007, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 06-03 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following Ordinance:

1 **Sec. 1. Section 50-35B is added as follows:**

2 **50-35B. [[Suspension of certain preliminary subdivision plan approvals]]**
 3 **Applicability of future adequate public facilities requirements – temporary**
 4 **provision.**

5 [[a)] Except as provided in subsections (b) and (c), the Planning Board
 6 must not approve or amend any preliminary plan of subdivision while
 7 this Section is in effect.]]

8 (a) Except as provided in subsections (c) and (d), the Planning Board's
 9 approval or amendment of any preliminary subdivision plan for which
 10 an application was filed after January 1, 2007, must be subject to any
 11 County Growth Policy or other adequate public facilities requirement
 12 adopted after the plan was approved if that Policy or requirement
 13 expressly applies to previously-approved plans. In considering any
 14 preliminary subdivision plan for which an application was filed before
 15 January 1, 2007, the Board must apply the County Growth Policy and
 16 other adequate public facilities requirements in effect when the
 17 application was filed.

18 (b) The Board must reopen any preliminary subdivision plan approved
 19 between January 1 and August 15, 2007, for which an application was
 20 filed after January 1, 2007, as necessary to assure that all development
 21 permitted under the plan complies with all applicable Growth Policy
 22 and other adequate public facilities requirements.

23 [[b)] (c) [[The]] Notwithstanding subsection (b), the Board may approve a
 24 preliminary subdivision plan without reserving the option to reopen
 25 the plan for compliance with later Growth Policy or adequate public
 26 facilities requirements if the proposed [[for a]] subdivision [[that]]:

- 27 (1) is located entirely in a Metro Station Policy Area, as defined in
 28 the County growth policy, or an enterprise zone; [[or]]
 29 (2) would add 5 or fewer peak hour trips, as defined under the
 30 County growth policy, for intersections serving that subdivision
 31 and is not located in the Poolesville or Goshen Policy Areas; or
 32 (3) is necessary to facilitate timely construction of a significant
 33 state or County public facility.

34 ~~[[c)]~~ (d) ~~[[The]]~~ Notwithstanding subsection (b), the Board may amend a
 35 preliminary subdivision plan that the Board approved before [[this
 36 Section took effect]] January 1, 2007, without reserving the option to
 37 reopen the plan for compliance with later Growth Policy or adequate
 38 public facilities requirements, if:

- 39 (1) the amendment would not add more than 5 peak hour trips to
 40 the number previously approved for intersections serving that
 41 subdivision; and [[(2)]] the subdivision is not located in the
 42 Poolesville or Goshen Policy Areas;
 43 (2) the amendment applies only to the Clarksburg Town Center and
 44 results from a mediated settlement agreement that the Board
 45 previously approved; or
 46 (3) the amendment is necessary to complete a development in the
 47 Life Sciences Center Zone and is required by a previously
 48 approved site plan for that development.

49 ~~[[d)]~~ Any subdivision for which an application for a preliminary
 50 subdivision plan was filed on or after December 5, 2006, must be
 51 subject to any growth policy or other adequate public facilities
 52 requirement adopted before the Planning Board approves that plan.]]

53 **Sec. 2. Effective date.** This ordinance takes effect on the date of Council
54 adoption.

55 **Sec. 3. Expiration.** Section 50-35B, added by Section 1 of this ordinance,
56 expires on August 15, 2007. The expiration of Section 50-35B does not restrict:

57 (a) the applicability of any later-adopted Growth Policy or other adequate
58 public facilities requirement to any preliminary subdivision plan for
59 which an application was filed between January 1, 2007, and August
60 15, 2007; and


61 (b) the authority of the Planning Board to reopen any preliminary
62 subdivision plan for which an application was filed on or after January
63 1, 2007, to assure that the plan will comply with all applicable Growth
64 Policy and other adequate public facilities requirements.

65 *Approved:*

66
67 
Isiah Leggett, County Executive

Feb 8, 2007
Date

68 *This is a correct copy of Council action.*

69
70 
Linda M. Lauer, Clerk of the Council

2/9/07
Date